

**FILED**

**NOV 20 2007**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GRAYDON G. COLLINS;  
LYNNE A. WEBB-COLLINS,

Defendants - Appellants.

No. 05-35850

D.C. No. CV-04-00829-JLR

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Western District of Washington  
James L. Robart, District Judge, Presiding

Submitted October 22, 2007<sup>\*\*</sup>

Before: B. FLETCHER, WARDLAW, and IKUTA, Circuit Judges.

Graydon G. Collins and Lynne A. Webb-Collins appeal pro se from the district court's summary judgment in favor of the United States in its action to reduce to judgment federal income tax assessments and to foreclose liens on their real property in order to satisfy deficiencies from tax years 1989 and 1991 through

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

1996. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *Hughes v. United States*, 953 F.2d 531, 541 (9th Cir. 1992), and we affirm.

We affirm the district court's finding that the tax liabilities for 1989, 1991 and 1992 are res judicata because the tax court adjudicated these deficiencies in a prior proceeding. *See Baker v. Internal Revenue Service (In re Baker)*, 74 F.3d 906, 909-10 (9th Cir. 1996) (per curiam) ("a final judgment on the merits of an action precludes the parties from relitigating issues that were or could have been raised in that action").

We uphold the district court's deficiency findings for 1993 through 1996, and its penalty finding for 1992, because the government submitted Forms 4340 in support of these determinations, *see Hughes*, 953 F.2d at 535 (holding that official certificates, such as Forms 4340, can constitute proof of the fact that the assessments were actually and properly made), and the Collinses did not produce evidence undermining the assessed amounts, *see Hansen v. United States*, 7 F.3d 137, 138 (9th Cir. 1993) (per curiam) (holding that Form 4340 shows in the absence of contrary evidence, that notices and assessments were properly made).

The Collinses' remaining contentions are unpersuasive.

The government's motion for sanctions is denied.

**AFFIRMED.**